

## REMARKS

Claims 1, 8, and 15-21 have been amended. Claims 1-21 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

### Section 101 Rejections:

The Office Action rejected claims 1-21 under 35 U.S.C. § 101, asserting that the claims are directed to non-statutory subject matter because “the claims are not directed towards the final result that is ‘useful, tangible and concrete.’... Because the ‘practical application, result, concrete, useful and tangible’ limitations are not claimed in Applicant’s claims, Examiner believes that the... claims are nonstatutory.”

Applicants traverse this rejection. Applicants note that amended independent claims 1, 8 and 15 clearly recite statutory subject matter. Claim 1 recites a storage device configured to store a plurality of files as well as a host device configured to implement a file system that is configured to manage access to and store file system content on the storage device. Moreover, the recited file system includes a programming-language-independent interface configured to allow an application to access the file system content. Similarly, claim 8 recites a method that includes the actions of a file system storing file system content on a storage device configured to store a plurality of files, and an application accessing the file system content via a programming-language-independent interface implemented by the file system. Finally, claim 15 recites a tangible, computer-accessible storage medium comprising program instructions executable to implement a file system that is configured to store file system content on a storage device and to present a programming-language-independent interface to an application, where the programming-language-independent interface is configured to allow the application to access said file system content. Applicants submit that each of the aforementioned claims clearly recites specific structure and/or functionality configured in a particular fashion, and that each of these claims on its face clearly recites at least one “useful, concrete and tangible” result.

Moreover, Applicants note that the Examiner has the burden to establish a *prima facie* case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. “Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101.... Further, when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection.” (MPEP 2106.II.A, emphasis added) In the instant Office Action, the Examiner has merely made a conclusory statement that the claims are directed to non-statutory subject matter without providing any specific reasoning with respect to the specific recitations of the claims to support this conclusion. Applicants therefore submit that the Examiner has failed to establish a *prima facie* case of unpatentability of claims 1-21 under 35 U.S.C. § 101, and that this rejection is therefore improper.

Additionally, the Office Action separately rejected claims 15-21 under 35 U.S.C. § 101 as being directed to non-statutory subject matter for failing to limit the recited “computer-accessible medium” to tangible media. Applicants have amended claims 15-21 to recite the referenced medium as a tangible, computer-accessible storage medium and submit that in view of this amendment, the rejection has been overcome.

#### **Section 102(e) and 103(a) Rejections:**

The Office Action rejected claims 1-3, 8-10 and 15-17 under 35 U.S.C. § 102(e) as being anticipated by Pearson et al. (U.S. Patent Application Publication No. 2005/0060561) (hereinafter, “Pearson”), and claims 4-7, 11-14 and 18-21 under 35 U.S.C. § 103(a) as being unpatentable over Pearson in view of Corneille et al. (U.S. Patent Application Publication No. 2005/0073982) (hereinafter, “Corneille”). Applicants traverse these rejections and note that the United States filing date of the Pearson application is July 20, 2004, whereas the filing date of Applicants’ application is December 10, 2003. While the Pearson application claims foreign priority to an earlier date, it is not available as a prior art reference under 35 U.S.C. § 102(e) as of its foreign priority date, but rather its earliest effective United States filing date (MPEP


706.02(f)(1)). Since the filing date of Applicants' application antedates the earliest effective United States filing date of the Pearson application, the Pearson reference is not prior art relative to Applicants' claims under either 35 U.S.C. § 102(e) or 35 U.S.C. § 103(a). Applicants therefore submit that these rejections are improper.

## CONCLUSION

Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-18500/BNK.

Respectfully submitted,



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